

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Release copies to District

Date [REDACTED]

Surname [REDACTED]

Date: APR 15 1999

Contact Person: [REDACTED]

ID Number: [REDACTED]

Telephone Number: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were created, as stated in your Articles of Association, for the purpose of "being of a new Christian religious order according to our spiritual providence as Pentecost Spiritual Christianity, and as a new American National and International ministry of preparation for missionary services in Christian Evangelism and Community Development purposes to establish missionary communities through spiritual religious disciplines as christian faith in the Lord Jesus Christ with economic development as a missionary service to religious diversity and the community, . . . under the divine guidance of the Holy Spirit according to Pentecost Spiritual Christianity." Or, "more specifically to missionary purposes for charitable purposes as human goodwill, both in national and international missionary coalition as a religious order against community poverty, community injustices and covetousness, which is idolatry".

You state you are "a nondenominational church overseeing a new religious movement and missionary coalition promoting Pentecost Spiritual Christianity". You will be "[E]stablishing Christian priorities as freedoms of faith . . . as the foundation for religion and spirituality . . . for unity in prayer on Biblical Christianity . . . both nationally and internationally in an American Missionary Order of Christian evangelism and community development." You further state that "this ecumenical order allows for any Child of God (Baptist, Methodist, Lutheran Pentecostal, Holiness, Unitarian, Catholic, Presbyterian, etc.,) to be united in the simplicity of our faith as representatives of the Universal Church of God being the Body of our Lord and Savior Jesus Christ". Your members may retain their membership in other churches, e.g., Baptist, Methodist, Catholic. The Covenant Agreement which your members sign to become a "[REDACTED]" includes the statement, "this Pentecost Spiritual Christianity Covenant allows me to continue in the basic religious belief of my denomination as a Christian Faith".

"[T]here are seven (7) distinct visionary organizations committed to the lordship and authority of the Revelation of Jesus Christ within the universal claims of Christ's Church having been established according to Pentecost Spiritual Christianity." "In other words, until one comes under the anointing of God the Father through faith in the Lord Jesus Christ according to the movement of

God in Pentecost being Christ's anointing-the [REDACTED]

IN [REDACTED] (C [REDACTED])

[REDACTED] and the [REDACTED] including the auxiliary orders as ministries..... people will never fully be able to comprehend the magnitude or fortitude of this ecumenical religious order as the whole being a Church of God." "[T]he ecumenical order of religion presenting Pentecost Spiritual Christianity allows for active participation with limited membership as Christian volunteers of any and all [REDACTED] services until there is complete understanding and revelation".

The [REDACTED] Mission, Statements and Purpose of Evangelism, contains the following. "We are committed not to start and are not here to establish another local church. . . . we believe that all individuals reclaimed through this association's ministries will become involved in their former church, or join a local and established church and/or become a part of and incorporated in the [REDACTED]"

A retirement package is provided by you for members that have completed at least [REDACTED] of service as a member, registered associate, and/or employee. The total benefits to be provided are not to exceed \$[REDACTED] per year, including retirement pension, insurance, medical expenses, etc. You also propose for your members, when you have the finances to support it, an "[REDACTED]" based on years of service, as an additional reward for "faithful services". Specified gifts range from \$[REDACTED] to \$[REDACTED] for [REDACTED] service up to [REDACTED] and [REDACTED] for [REDACTED] years service. Beyond [REDACTED] years the amount of the gift is not specified but is at the discretion of the administrative overseer. "Until the corporate business venture has been in existence for at least [REDACTED] years, the amenity gift plan remains a visionary order." Members will be eligible for employment after [REDACTED] years of volunteer services. The schedule of pay for volunteers ranges from \$[REDACTED] per week and [REDACTED] personal days in the first year, to \$[REDACTED] per hour and [REDACTED] vacation weeks in the nineteenth year. For years after [REDACTED] the vacation is capped at twenty weeks, but there is no amount specified as a salary cap. It appears that, ultimately, most members will be working for you in one of your auxiliary orders and/or business ventures.

Your premises are used for your monthly worship service and monthly praise service, [REDACTED] meetings, retreats, seminars, employment opportunities and career training, commutative services in housing, transportation, religious academics, etc. The family of your founder, [REDACTED] lives on your premises and, according to your budget, you propose to pay such items as their expenses for rent, food, utilities, etc. It also appears that you will provide such housing assistance to your other members after they serve three years as volunteers. "All the opportunities for career training and/or employment that eventually will exist in the [REDACTED] including its commitment to provide the necessities of life (housing, food, transportation) must be according to the institutional activities that would represent the entire whole as auxiliary activities of the Church. . . . available to all associates, volunteers, and/or registered members."

You are controlled by [REDACTED] trustees, representing only [REDACTED] families. The majority of your trustees, [REDACTED], are your creator/founder ([REDACTED]), who is also the first missionary/evangelist, first spiritual leader of you and of the auxiliary constitutional orders, and [REDACTED] and members of his family. Officers can be removed only by the [REDACTED]. Prospective members receive an "[REDACTED]" which is about half of your complete [REDACTED]. The requirements for receiving a complete [REDACTED] are such that a member cannot qualify for at least [REDACTED] years. Additional clergy cannot

be ordained until licensed, and one of the requirements for licensing is securing the [REDACTED] Licensing Missionary Certification & Compliance Board Seal Quorum, and this "must not be applied until at least a minimum of [REDACTED] years signature verification status have been accredited". [REDACTED] wrote your constitution and manuals and they provide that for the church, "[T]he statutory principles of this assembly as a [REDACTED] cannot be amended", and for each of the auxiliaries, "[T]he statutory principles of this association cannot be amended."

The [REDACTED] is a for profit auxiliary. There shall be only one [REDACTED] for all [REDACTED] auxiliaries no matter how many local chapters there may be. The first [REDACTED] shall be the [REDACTED] unless he chooses to appoint another person. The [REDACTED] will serve a twelve year term. Anyone else appointed will serve for only nine years. The salary is "[C]onfidential and fixed by [REDACTED]" with the approval of the preliminary Board of Trustees. "Executive's" salaries are set by the [REDACTED] will have its own [REDACTED] with a stated range of \$[REDACTED] for a minimum of two years service to \$[REDACTED] for a minimum of twenty years service.

Section 170(a) of the Code, in part, provides, for the allowance of a deduction for charitable contributions.

Section 170(c)(2)(B) of the Code provides that the term "charitable contribution" means a contribution or gift to or for the use of a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

Section 170(b)(1)(A)(i) of the Code describes as included therein "a church or a convention or association of churches".

Section 1.170A-9(a) of the Income Tax Regulations provides that an organization is described in section 170(b)(1)(A)(i) of the Code if it is a church or a convention or association of churches.

In Chapman v. Commissioner, 48 T.C. 358 (1967), the Court declared that a group of missionary workers drawn from many Christian churches could not be said to be a church. The group was interdenominational and independent of any connection with the churches with which its members were affiliated. It did not seek converts other than to the principles of Christianity generally and if successful urged those converts to establish their own native churches. It was merely a religious organization comprised of individual members who were already affiliated with various churches.

In American Guidance Foundation, Inc. v. U.S., 490 F. Supp. 304 (D.D.C. 1980), the court said that, at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instruction, and in its promulgation of doctrine. The court noted that the Internal Revenue Service has developed fourteen criteria which it applies as the circumstances warrant in order to determine if an organization is a "church". These criteria are as follows:

- (a) a distinct legal existence

[REDACTED]
[REDACTED]

- (b) a recognized creed and form of worship
- (c) a definite and distinct ecclesiastical government
- (d) a formal code of doctrine and discipline
- (e) a distinct religious history
- (f) a membership not associated with any other church or denomination
- (g) ordained ministers ministering to its congregations
- (h) ordained ministers selected after completing prescribed studies
- (i) a literature of its own
- (j) established places of worship
- (k) regular congregations
- (l) regular religious services
- (m) Sunday schools for religious instruction of the young
- (n) Schools for the preparation of its ministers

Also taken into consideration are any other facts and circumstances which may bear upon the organization's claim for church status.

Section 501(a) of the Code, in part, provides for the exemption from federal income tax for organizations described in section 501(c).

Section 501(c)(3) of the Code, in part, provides for the exemption of organizations which are both organized and operated exclusively for charitable purposes as long as, among other conditions, no part of the net earnings inure to the benefit of any private individual or shareholder.

Section 1.501(c)(3)-1(a) of the regulations states, in part, that if an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1) of the regulations states, in part, that an organization is not organized exclusively for exempt purposes unless its activities are limited to one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations, in part, states that an organization will not be operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations states, in part, that an organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(a)-1(c) of the regulations states, in part, that the words private shareholder or individual refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations, in part, states that an organization is not organized or operated for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary that the organization establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or shareholders of the organization.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" as used in section 501(c)(3) of the Code includes, among other things, the advancement of religion.

In Better Business Bureau of Washington D.C. v. United States, 326 U.S. 279 (1945), it was held that a single non-exempt purpose, if substantial in nature, would preclude exemption under section 501(c)(3) of the Code regardless of the number or importance of truly exempt purposes.

In Bill Wildt's Motorsport Advancement Crusade v. Commissioner, No. 22975-87X, T.C. Memo 1989-93 (March 9, 1989), 56 TCM 1989-93, the court found a substantial non-exempt purpose of promoting the competitive and commercial motorsport industry. It also found that because the creators has a significant involvement in the industry, controlled the organization as its trustees, were the primary salaried employees, and the bulk of the money budgeted for contracted equipment would go to one of these individuals for the use of his equipment, petitioners had not shown that there was no inurement of earnings to the benefit of private individuals. For both of these reasons the court held that petitioners did not qualify for exemption under section 501(c)(3) of the Code.

In Church by Mail, Inc., v. United States, 88-2 USTC 9625 (Nov. 28, 1988), the court denied exemption under section 501(c)(3) of the Code because, rather than being operated exclusively for exempt purposes, CBM was operated substantially for the financial benefit of two of its four creators and their families and close associates; and, net income inured to their private benefit. The four creators constituted the Board of Trustees and principal officers of CBM. The two creators were also the sole shareholders of and controlled two other related organizations. The three organizations shared space and employees and CBM contracted with them for services. Through these arrangements, in addition to the excessive compensation being paid to them, substantial funds were funneled from CBM to these two creators, their families and close associates, and otherwise used to benefit them.

You state that you plan to provide living expenses (housing, food, etc) for your founder and his family, and for all members after satisfactory completion of the [redacted] year volunteer period. This would appear to constitute prohibited inurement and would preclude exemption. See section 1.501(c)(3)-1(c)(2) of the regulations. It also appears that most, if not all, members will be employed by you. Having your members working for you in your businesses and having their personal needs provided for by you gives this aspect of your operation the appearance of a mutual self-help operation which is outside the scope of exemption under section 501(c)(3) of the Code and would also preclude exemption.

Because the benefits/salaries for members increase so dramatically, from \$ [redacted] /week (the equivalent of \$ [redacted] /year) to \$ [redacted] /hour (the equivalent of \$ [redacted] /year) based on years of membership, it appears that this is a means to give the members a share of profits rather than providing a salary commensurate with service(s) performed. This also would constitute prohibited

inurement and would also constitute the serving of private interests in contravention of section 1.501(c)(3)-1(d)(1)(iii) of the regulations because substantial benefits go to your creator and his family and to the members who stand in the position of shareholders.

You also appear to be created to serve the private interests of your creator, [REDACTED]. Your creating document and those of your subordinate auxiliaries cannot be amended without [REDACTED] consent. [REDACTED] also wrote your manual. These documents install him as first missionary/evangelist, first spiritual leader, and [REDACTED]. They also give him the option, at his discretion, of being the first [REDACTED] (for a [REDACTED] year term) and for all practical purposes, being able to set his own salary and not disclose it to any members) or appointing a person of his choosing (for a [REDACTED] year term). No other clergy can be licensed for [REDACTED] years. Members cannot qualify to receive a full manual for [REDACTED] years. [REDACTED] and [REDACTED] members constitute two thirds of your Board of Trustees. Thus, [REDACTED] is the only person fully knowledgeable as to your manual procedures and is in a position to control your operations with no one else having full knowledge of what the manual requires, whether it is being carried out, or the procedures to correct it if not. This all tends to indicate a nonexempt purpose of serving the interests of your creator and the rationale of Bill Wildt's Motorsport Advancement Crusade, Church by Mail, Inc. and Better Business Bureau, supra, would apply and under sections 1.501(c)(3)-1(c)(1), 1.501(c)(3)-1(c)(2) and 1.501(c)(3)-1(d)(1)(iii) of the regulations, this would preclude exemption.

You have a for profit development company which is one of the seven visionary organizations you state make up the "church". You have been unwilling or unable to provide us with details as to the specific activities of these [REDACTED] companies or how they will be operated. It does appear, however, that they are expected to be a major source of your funds, will constitute a substantial part of your activities, and will be staffed primarily (if not exclusively) with your members. [REDACTED] will have its own [REDACTED] with eligibility for \$ [REDACTED] after [REDACTED] years. Your operation of [REDACTED] is not an exempt activity and, being substantial, would also preclude exemption under the rationale of Better Business Bureau, supra, and section 1.501(c)(3)-1(c)(1) of the regulations. Also, pursuant to section 1.501(c)(3)-1(b)(1) and because the operation of these economic development companies is a purpose stated in your Articles, you would not be considered to be organized exclusively for exempt purposes.

Because of the above, you are neither organized nor operated exclusively for exempt purposes and do not qualify for exemption under section 501(c)(3) of the Code.

Even if you were exempt, you would not qualify as a church described in section 170(b)(1)(A)(i) of the Code. Most of your own documents state that you are a nondenominational, ecumenical, evangelistic, missionary organization. Your Articles state you are organized "for missionary services in Christian Evangelism and Community Development purposes". The mission statement of your primary missionary organization states that they are committed not to start or establish another local church but that the people they bring to Christ are expected to go back to their previous church or, if they had none previously, to an established local church.

Your members come from various denominations and retain their membership in their own churches (Baptist, Catholic, etc.). The Covenant Agreement signed by your members specifically acknowledges this. Your members would continue to go to their various churches for weekly worship services and other functions, such as the religious instruction of their children, because you conduct only one worship service and one praise service a month. As you do not have a membership not associated with other churches or a regular congregation assembling weekly to

[REDACTED]
[REDACTED]
worship, you do not satisfy the criteria of American Guidance Foundation, Inc. v. U.S. Instead, you appear more like the organization in Chapman v. Commissioner, 48 T.C. 358 (1967).

In addition, you state that you are composed of [REDACTED] visionary organizations, auxiliaries, which together constitute the church. Most of these are created for, and will conduct, missionary and/or evangelical activities. Two of auxiliaries are a for profit company, [REDACTED] and the [REDACTED] a home for recovering addicts, the equivalent of a halfway house. None of these activities qualify as "church" functions. The extent of the activities of the [REDACTED] and other auxiliaries is unknown, but the information provided indicates that [REDACTED] will be a substantial part of your activities. Thus, because a substantial part of your activities is not considered "church" activities, this also would preclude your classification as a church under section 170(b)(1)(A)(i) of the Code.

While you may be a religious organization, you do not fill your members needs for regular weekly church services or their needs for certain religious ceremonies. You fail to meet several of the criteria listed in American Guidance Foundation, supra, including the one that court found so critical, regular assembly for worship. Because your members are already affiliated with various churches, you appear to be more like the organization in Chapman, supra, which was held to be religious, but not a "church".

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the Ohio EP/EO key district office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, EP/EO Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

[REDACTED]
[REDACTED]

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: OP:E:EO:T:2, Room 6539
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) ~~Garland A. Carter~~

Garland A. Carter
Chief, Exempt Organizations
Technical Branch 2

OP:E:EO:T:2

OP:E:EO:T:2